

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
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Telephone Number:

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October 17, 2011

Legend

Taxpayer =

Statute =

Plan =

Dear :

Taxpayer is a political subdivision with all powers to govern and provide for the health, safety and welfare of its citizens. Taxpayer adopted Statute to create Plan. Plan provides for payment of benefits to qualifying beneficiaries of certain public employees who die or sustain an injury resulting in death in the line of duty. Plan will receive funding from Taxpayer. Taxpayer will also accept contributions from members of the general public to fund Plan. The amount paid to qualifying beneficiaries will be a one-time payment of a designated amount. Taxpayer represents that amounts paid under Plan are not determined based on a deceased employee's age or length of service or prior contributions to Plan. Taxpayer also represents that Plan is not an annuity from a plan that is qualified under section 401(a) of the Internal Revenue Code (the Code).

Section 104(a)(1) of the Code states that, "Except in the case of amounts attributable to (and not in excess of) deductions allowed under section 213 (relating to medical, etc. expenses) for any prior taxable year, gross income does not include--(1) Amounts received under workmen's compensation acts as compensation for personal injuries or sickness... ."

Section 1.104-1(b) of the Income Tax Regulations states that section 104(a)(1) excludes from gross income amounts that are received by an employee under a

workmen's compensation act or under a statute in the nature of a workmen's compensation act that provides compensation to employees for personal injuries or sickness incurred in the course of employment. Section 104(a)(1) also applies to compensation which is paid under a workmen's compensation act to the survivor or survivors of a deceased employee. However, section 104(a)(1) does not apply to a retirement pension or annuity to the extent that it is determined by reference to the employee's age or length of service, or the employee's prior contributions, even though the employee's retirement is occasioned by an occupational injury or sickness.

Section 170(c)(1) provides that the term "charitable contribution" includes a contribution to a State, a possession of the United States, or any political subdivision of any of the foregoing, but only if the contribution is made for exclusively public purposes.

Deductions for contributions to a fund will be allowable where the donee organization has full control of the donated funds, and discretion as to their use, so as to insure that they will be used to carry out its functions and purposes. Rev. Rul. 62-113, 1962-2 C.B. 10.

Taxpayer is a political subdivision. As noted, Taxpayer adopted Plan solely for the benefit of and to compensate the qualifying beneficiaries of certain public employees, and there are not private interests involved.

Accordingly, based on the representations made, and authorities cited above, we conclude as follows:

(1) Plan benefits paid to a qualifying beneficiary are paid pursuant to a statute in the nature of a workmen's compensation act and are excludable from the beneficiary's gross income under section 104(a)(1) of the Code.

(2) Contributions made to Taxpayer to fund Plan may be deductible by donors as charitable contributions provided that Taxpayer has full control and discretion as to their use and that the donors meet all other applicable requirements of section 170 of the Code.

This ruling is directed only to the Taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this ruling is being sent to your authorized representative.

Sincerely,

Harry Beker
Chief, Health and Welfare Branch
Office of Division Counsel/Associate
Chief Counsel
(Tax Exempt & Government Entities)

cc: